

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 13TH DAY OF AUGUST, 2010

BEFORE

THE HON'BLE MR. JUSTICE RAVI MALIMATH

WRIT PETITION NO.27557 OF 2009 (GM-RES)

BETWEEN:

Mrs.Asha Parveen
Aged about 36 years,
W/o Shri Sanaulla Khan
Tahsildar, Devanahalli
Bangalore Rural District.

... PETITIONER

(By Srnt.A.L.Saritha for Sri.Girish S.Jambagi, Advocates)

AND:

1. The State of Karnataka represented
By its Secretary to Government
Revenue Department, M.S.Buildings
Sachivalaya-II,
Bangalore - 560 001.
2. The Deputy Commissioner
Bangalore Rural District
Visveshwaraiah Towers,
Dr.Ambedkar Veedhi,
Bangalore - 560 001.
3. The Assistant Commissioner
Doddaballapura
Visveshwaraiah Towers,



Dr.Ambedkar Veedhi,
Bangalore - 560 001.

4. The Commissioner
Karnataka State Information Commission
Gate No.2, III Stage, III Floor
M.S.Building, Bangalore - 560 001.

... RESPONDENTS

(By Sri E.S.Indiresh, HCGP for R1-3)

This Writ Petition is filed under Article 226 and 227 of the Constitution of India praying quash the order dated 24.7.2009 issued by the R4 vide Annexure-G as null and void.

This Writ Petition coming on for Preliminary Hearing in 'B' group this day, the Court made the following:-

ORDER

An application dated 04.12.2008 and 05.12.2008 were made by one S.N.Lakshminrayana to the petitioner-Tahsildar of Devenahalli, Bangalore Rural District seeking information with regard to the khathas and the procedure adopted by the office of the Tahsildar before issuance of the same, etc. No response was forth coming from the petitioner. In view of the statutory period having expired, the applicant filed an appeal to the 4th respondent. The 4th respondent issued a notice to the petitioner dated

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24.02.2009 to show cause as to why punishment should not be imposed on the petitioner for inaction in terms of Section 20(1) of Right to Information Act, 2005. She was asked to appear in person on 03.06.2009. Rather than appearing in person, a representative was sent on the said date. By the order dated 03.06.2009, the 4th respondent issued another show cause notice to the petitioner as to why action should not be taken against her for her willful absence and also for non-furnishing of the required information even as on that date. On the 3rd date viz., 24.07.2009, the petitioner did not appear before the 4th respondent. The said representative was once again sent to seek for time. In view of the absence of the petitioner, the impugned order was passed imposing a penalty of a sum of Rs.25,000/- to be recovered from the salary of the petitioner and a further direction was issued to the 1st and 2nd respondents to hold an enquiry and to make necessary entries in the service register, etc. The said order is under challenge in this petition.



2. Smt.Savitha, learned Counsel appearing for the petitioner contends that the impugned order is bad in law and liable to be set aside. She contends that the impugned order has been passed without giving her any opportunity. She contends that some of the documents as sought for have now been submitted to the applicant. She further contends that her non-appearance before the 4th respondent was not deliberate.

3. The Learned Government Advocate Sri.E.S.Indiresh for the respondents defends the impugned order. He submits that substantial opportunities have been given to the petitioner to represent her case before the 4th respondent. However on every date she was absenting herself. Rather than appearing before the Commission in terms of the notice, on every occasion she has chosen to send her representative. He further contends that the action of the petitioner is not only in non-compliance of the notice issued to her but, being a civil servant amounts to gross-disobedience. He further submits that an enquiry having been ordered, the

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petitioner can make out her case before the enquiry and therefore, any interference in this petition is uncalled for.

4. Heard counsels.

5. Admittedly, the petitioner did not appear before the 4th respondent on any of the dates. Even though the matter was adjourned on more than four to five occasions, rather than appearing herself in terms of the notice issued to her, she always sent her sub-ordinates. The first show cause notice issued to her was with regard to the proposed punishment. The second issuance of show cause notice was with regard to the willful absence of the petitioner and for non-furnishing of the required information. When such serious notices directly affect the petitioner, it was necessary for the petitioner to attend to appear and put forth her plea before the 4th respondent. Having known the seriousness of the issues, it is apparent that the petitioner has deliberately absented herself. The act of absenting herself in the proceedings before the 4th respondent may also be an act of disobedience.

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6. Discipline is paramount to administration. The petitioner being a civil servant is expected to perform her duties diligently. She was expected to show cause against the laxity attributed to her. Having failed to explain her actions, she cannot now contend with regard to the validity of the impugned orders. She has deliberately failed to exercise the ample opportunities given to her.

7. The impugned order directing her to pay a penalty of a sum of Rs.25,000/- is just and proper and does not call for any interference. The enquiry is yet another opportunity to the petitioner in order to defend herself. There can be no interference by the Writ Court in a matter such as this. This clearly shows the gross negligence in complying with the terms of the Right to Information Act, 2005 and in gross disobedience to the show cause notices issued. The petitioner is always at liberty to defend herself appropriately in the enquiry on the facts that she relies on.

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8. For the aforesaid reasons, the petition being devoid of merits is rejected.

Sd/-
JUDGE

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